

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

FILED CLERK  
U.S. DISTRICT COURT  
2010 SEP 27 AM 8:42

ADJUSTACAM LLC

Plaintiff,

vs.

AMAZON.COM, INC. ;  
AUDITEK CORPORATION ;  
BALTIC LATVIAN UNIVERSAL  
ELETRONICS, LLC D/B/A BLUE  
MICROPHONES, LLC D/B/A BLUE  
MICROPHONE ;  
BLUE MICROPHOBES, LLC ;  
CDW CORPORATION F/K/A CDW  
COMPUTER CENTERS, INC. ;  
CDW, INC. ;  
CDW, LLC ;  
COMPUSA.COM, INC.  
COBRA DIGITAL, LLC ;  
CREATIVE TECHNOLOGY LTD. ;  
CREATIVE LABS, INC. ;  
DELL, INC.  
DIGITAL INNOVATIONS, LLC ;  
EASTMAN KODAK COMPANY ;  
EZONICS CORPORATION D/B/A  
EZONICS CORPORATION USA D/B/A  
EZONICS ;  
FRY'S ELECTRONICS, INC.  
GEAR HEAD, LLC ;  
GENERAL ELECTRIC COMPANY ;  
HEWLETT-PACKARD COMPANY ;  
INTCOMEX, INC. ;  
JASCO PRODUCTS COMPANY LLC  
D/B/A JASCO PRODUCTS COMPANY  
D/B/A JASCO ;  
JWIN ELECTRONICS  
CORPORATION ;  
KLIP XTREME LLC,  
KMART CORPORATION ;  
LIFEWORCS TECHNOLOGY GROUP,  
LLC ;

TEXAS EASTERN

BY

Civil Action No. 6:10-cv-00329

JURY TRIAL DEMANDED

MACALLY PERIPHERALS, INC. D/B/A  
MACALLY U.S.A. ;  
MACE GROUP, INC. ;  
MICRO ELECTRONICS, INC. DBA  
MICRO CENTER ;  
NEW COMPUSA CORPORATION ;  
NEWEGG, INC. ;  
NEWEGG.COM, INC. ;  
OFFICE DEPOT, INC. ;  
OVERSTOCK.COM, INC. ;  
PHOEBE MICRO, INC. ;  
PROLYNKZ, LLC ;  
RADIOSHACK CORPORATION ;  
ROSEWILL, INC. ;  
SEARS BRAND, LLC ;  
SEARS HOLDING CORPORATION  
D/B/A SEARS ;  
SEARS, ROEBUCK AND COMPANY ;  
SAKAR INTERNATIONAL, INC.  
SAKAR, INC.  
SDI TECHNOLOGIES, INC.  
SOFTWARE BROKERS OF AMERICA,  
INC. DBA INTCOMEX CORPORATION  
D/B/A INTCOMEX ;  
SYSTEMAX, INC. D/B/A COMPUSA ;  
TARGET CORP. ;  
TIGERDIRECT, INC. ;  
TRIPPE MANUFACTURING  
COMPANY D/B/A TRIPP LITE ; AND  
WAL-MART STORES, INC.

**Defendants.**

## Defendants.

## **DEFENDANT PHOEBE MICRO, INC.'S ANSWER AND AFFIRMATIVE DEFENSES**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant Phoebe Micro, Inc. ("Phoebe") files this Amended Answer to the Complaint filed by Adjustacam LLC ("Plaintiff") and pleads as follows:

**The Parties**

1. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 1 of the Complaint, and therefore denies them.

2. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 2 of the Complaint, and therefore denies them.

3. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 3 of the Complaint, and therefore denies them.

4. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 4 of the Complaint, and therefore denies them.

5. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 5 of the Complaint, and therefore denies them.

6. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 6 of the Complaint, and therefore denies them.

7. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 7 of the Complaint, and therefore denies them.

8. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 8 of the Complaint, and therefore denies them.

9. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 9 of the Complaint, and therefore denies them.

10. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 10 of the Complaint, and therefore denies them.

11. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 11 of the Complaint, and therefore denies them.

12. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 12 of the Complaint, and therefore denies them.

13. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 13 of the Complaint, and therefore denies them.

14. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 14 of the Complaint, and therefore denies them.

15. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 15 of the Complaint, and therefore denies them.

16. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 16 of the Complaint, and therefore denies them.

17. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 17 of the Complaint, and therefore denies them.

18. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 18 of the Complaint, and therefore denies them.

19. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 19 of the Complaint, and therefore denies them.

20. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 20 of the Complaint, and therefore denies them.

21. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 21 of the Complaint, and therefore denies them.

22. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 22 of the Complaint, and therefore denies them.

23. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 23 of the Complaint, and therefore denies them.

24. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 24 of the Complaint, and therefore denies them.

25. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 25 of the Complaint, and therefore denies them.

26. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 26 of the Complaint, and therefore denies them.

27. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 27 of the Complaint, and therefore denies them.

28. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 28 of the Complaint, and therefore denies them.

29. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 29 of the Complaint, and therefore denies them.

30. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 30 of the Complaint, and therefore denies them.

31. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 31 of the Complaint, and therefore denies them.

32. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 32 of the Complaint, and therefore denies them.

33. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 33 of the Complaint, and therefore denies them.

34. Phoebe admits that it is a corporation organized and existing under the laws of the State of California and that it may be served with process through its registered agent. The remainder of paragraph 34 of the Complaint is denied.

35. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 35 of the Complaint, and therefore denies them.

36. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 36 of the Complaint, and therefore denies them.

37. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 37 of the Complaint, and therefore denies them.

38. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 38 of the Complaint, and therefore denies them.

39. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 39 of the Complaint, and therefore denies them.

40. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 40 of the Complaint, and therefore denies them.

41. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 41 of the Complaint, and therefore denies them.

42. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 42 of the Complaint, and therefore denies them.

43. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 43 of the Complaint, and therefore denies them.

44. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 44 of the Complaint, and therefore denies them.

45. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 45 of the Complaint, and therefore denies them.

46. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 46 of the Complaint, and therefore denies them.

47. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 47 of the Complaint, and therefore denies them.

48. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 48 of the Complaint, and therefore denies them.

49. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 49 of the Complaint, and therefore denies them.

#### **Jurisdiction and Venue**

50. Phoebe admits that Plaintiff avers that this is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1, et seq. Phoebe admits that Plaintiff avers that jurisdiction is properly based on title 35 United States Code, particularly §

271, and Title 28 United States Code, particularly §§ 1331 and 1338(a). Each and every other allegation contained in paragraph 50 of the Complaint is denied.

51. Phoebe admits that Plaintiff avers venue is proper in this district pursuant to 28 U.S.C. § 1391 (b-c) and § 1400(b). Each and every other allegation contained in paragraph 51 of the Complaint is denied.

**Claim for Patent Infringement**

52. Phoebe admits that a copy of Plaintiff avers that it filed United States Patent 5,855,343 (“the ‘343 Patent”), entitled “Camera Clip” on March 7, 1997 and that Plaintiff avers that it was legally issued on January 5, 1999. Phoebe is without knowledge or information sufficient to admit or deny the remaining allegations in paragraph 52 of the Complaint, and therefore denies them.

53. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 53 of the Complaint, and therefore denies them.

54. Phoebe admits that Plaintiff avers that the ‘343 Patent covers, inter alia, apparatuses for supporting cameras comprising (1) hinge member notably attached to the camera, the camera rotating about a first axis of rotation relative to the hinge member, (2) a support frame rotatably attached to the hinge member, the hinge member, the hinge member rotating about second axis of rotation relative to the frame, the second axis being generally perpendicular to said first axis, and the second axis being substantially parallel to the first surface of an object, for example, a laptop or portable computer, when the hinge member is supported on the object, (3) the support frame having a first disposition positioned on a generally horizontal, substantially planar surface, for example a table top, and having a second disposition attached to



the object, with the camera being maintained adjacent an edge of the object in the second disposition. Phoebe is without knowledge or information sufficient to admit or deny the remaining allegations in paragraph 52 of the Complaint, and therefore denies them.

55. Phoebe admits that a copy of Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 55 of the Complaint, and therefore denies them.

56. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 55 of the Complaint, and therefore denies them.

57. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 56 of the Complaint, and therefore denies them.

58. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 57 of the Complaint, and therefore denies them.

59. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 58 of the Complaint, and therefore denies them.

60. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 59 of the Complaint, and therefore denies them.

61. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 60 of the Complaint, and therefore denies them.

62. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 61 of the Complaint, and therefore denies them.

63. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 62 of the Complaint, and therefore denies them.

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71. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 70 of the Complaint, and therefore denies them.

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131. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 130 of the Complaint, and therefore denies them.

132. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 131 of the Complaint, and therefore denies them.

133. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 132 of the Complaint, and therefore denies them.

134. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 133 of the Complaint, and therefore denies them.

135. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 134 of the Complaint, and therefore denies them.

136. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 135 of the Complaint, and therefore denies them.

137. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 136 of the Complaint, and therefore denies them.

138. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 137 of the Complaint, and therefore denies them.

139. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 138 of the Complaint, and therefore denies them.

140. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 139 of the Complaint, and therefore denies them.



141. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 140 of the Complaint, and therefore denies them.

142. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 141 of the Complaint, and therefore denies them.

143. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 142 of the Complaint, and therefore denies them.

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145. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 144 of the Complaint, and therefore denies them.

146. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 145 of the Complaint, and therefore denies them.

147. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 146 of the Complaint, and therefore denies them.

148. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 147 of the Complaint, and therefore denies them.

149. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 148 of the Complaint, and therefore denies them.

150. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 149 of the Complaint, and therefore denies them.

151. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 150 of the Complaint, and therefore denies them.

152. Phoebe admits that it has sold an apparatus with a model number Airlink 101 AWCN200 Webcam. Phoebe is without knowledge or information sufficient to admit or deny the remaining allegations in paragraph 152 of the Complaint, and therefore denies them.

153. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 153 of the Complaint, and therefore denies them.

154. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 154 of the Complaint, and therefore denies them.

155. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 155 of the Complaint, and therefore denies them.

156. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 156 of the Complaint, and therefore denies them.

157. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 157 of the Complaint, and therefore denies them.

158. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 158 of the Complaint, and therefore denies them.

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161. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 161 of the Complaint, and therefore denies them.

162. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 162 of the Complaint, and therefore denies them.

163. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 163 of the Complaint, and therefore denies them.

164. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 164 of the Complaint, and therefore denies them.

165. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 165 of the Complaint, and therefore denies them.

166. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 166 of the Complaint, and therefore denies them.

167. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 167 of the Complaint, and therefore denies them.

168. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 168 of the Complaint, and therefore denies them.

169. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 169 of the Complaint, and therefore denies them.

170. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 170 of the Complaint, and therefore denies them.

171. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 171 of the Complaint, and therefore denies them.

172. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 172 of the Complaint, and therefore denies them.

173. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 173 of the Complaint, and therefore denies them.

174. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 174 of the Complaint, and therefore denies them.

175. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 175 of the Complaint, and therefore denies them.

176. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 176 of the Complaint, and therefore denies them.

177. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 177 of the Complaint, and therefore denies them.

178. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 178 of the Complaint, and therefore denies them.

179. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 179 of the Complaint, and therefore denies them.

180. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 180 of the Complaint, and therefore denies them.

181. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 181 of the Complaint, and therefore denies them.

182. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 182 of the Complaint, and therefore denies them.

183. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 183 of the Complaint, and therefore denies them.

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185. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 185 of the Complaint, and therefore denies them.

186. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 186 of the Complaint, and therefore denies them.

187. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 187 of the Complaint, and therefore denies them.

188. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 188 of the Complaint, and therefore denies them.

189. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 189 of the Complaint, and therefore denies them.

190. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 190 of the Complaint, and therefore denies them.

191. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 191 of the Complaint, and therefore denies them.

192. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 192 of the Complaint, and therefore denies them.

193. Phoebe is without knowledge or information sufficient to admit or deny the statements in paragraph 193 of the Complaint, and therefore denies them.

**Demand for Jury Trial**

194. Phoebe admits that Plaintiff demands a jury trial on all claims and issues, but denies that Plaintiff is entitled to any relief in this action, including, but not limited to, the relief that Plaintiff requests in its Prayer for Relief.

**General Denial**

195. To the extent that any allegations of this Complaint are not specifically admitted, Phoebe denies them.

**Affirmative Defenses**

196. Phoebe asserts the following affirmative and other defenses, and reserves the right to amend its answer as additional information becomes available and additional defenses become apparent.

**A. First Defense (No Infringement)**

197. Phoebe does not infringe and has not infringed, either directly, contributorily, or by inducement, any claim of the '343 Patent literally or under the doctrine of equivalents.

**B. First Defense (No Infringement)**

198. Each and every claim of the '343 Patent is invalid for failure to comply with one or more provisions of the patent laws of the United States of America, Title 35, United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, 112 and/or 116.

**C. Third Defense (Limitation on Damages)**

199. Plaintiff's recovery for alleged infringement of the '343 Patent, if any, is limited by 35 U.S.C. § 286.

**D. Fourth Defense (Patent Marking)**

200. Some or all of Plaintiff's claims for relief concerning the '343 Patent are limited by failure to comply with the marking and notice requirements of 35 U.S.C. § 287.

**E. Fifth Defense (Equitable Estoppel)**

201. The '343 Patent is unenforceable by reason of the doctrine of equitable estoppel.

WHEREFORE, Defendant Phoebe Micro, Inc. respectfully prays that judgment be entered in its favor and against Plaintiff Adjustacam LLC as follows:

- A) Denial of Plaintiff's request that Phoebe be found to have infringed one or more of the asserted claims of the '343 Patent.
- B) Denial of Plaintiff's request for damages;
- C) Denial of Plaintiff's request for pre-judgment and post-judgment interest;
- D) Denial of Plaintiff's request that this case be declared exceptional
- E) Denial of Plaintiff's request for attorney's fees;
- F) Denial of Plaintiff's request for costs;
- G) Denial of Plaintiff's request for additional or alternative relief,
- H) An award to Phoebe of its attorney's fees and costs and such other relief as the Court finds just and proper.

Respectfully submitted,



Date: September 27, 2010

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Peter Lui, General Manager for  
*DEFENDANT PHOEBE MICRO, INC.*  
*APPEARING PRO SE*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was filed with the Court on September 27, 2010 and that service is made to all counsel who are deemed to have consented to electronic service per Local Rule CV-5(a)(3)(A). Any other counsel of record will be served on the above-indicated date with a true and correct copy of this document via U.S. First Class Mail.

**Jennifer Parker Ainsworth**

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909 ESE Loop 323  
Suite 400  
P.O. Box 7339  
Tyler, TX 75711-7339  
(Attorneys for Defendant Eastman Kodak Company)

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